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DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

**Notice of Availability of a Final Programmatic Environmental Impact Statement
and Draft Record of Decision for Northern Border Activities**

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Notice of Availability.

SUMMARY: U.S. Customs and Border Protection (CBP) announces that the Final Programmatic Environmental Impact Statement (PEIS) and Draft Record of Decision (ROD) for Northern Border Activities are now available. The Final PEIS analyzes the potential environmental and socioeconomic effects associated with its ongoing and potential future activities along the northern border between the United States and Canada. The overall area of study analyzed in the document extends approximately 4,000 miles from Maine to Washington and 100 miles south of the U.S.-Canada Border. A Draft ROD announcing CBP's decision concerning which alternative to select is available for review for 30 days.

DATES: The Draft ROD will be available until [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. CBP will issue a Final ROD no sooner than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public and other interested parties may obtain copies of the Final PEIS and Draft ROD by accessing the following Internet address:

<http://www.cbp.gov/xp/cgov/about/sr/> and www.dhs.gov/nepa, by contacting CBP by

telephone (202-325-4191), by email cbpenvironmentalprogram@cbp.dhs.gov, or by writing to: Jennifer DeHart Hass, Environmental and Energy Division, 1331 Pennsylvania Ave. NW Suite 1220N, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jennifer DeHart Hass, CBP, Office of Administration, telephone 202-325-4191. You may also visit the project's website at: <http://www.cbp.gov/xp/cgov/about/sr/>.

SUPPLEMENTARY INFORMATION:

Background

U.S. Customs and Border Protection (CBP) is charged with the mission of enforcing customs, immigration, agriculture, and numerous other laws and regulations at the Nation's borders and facilitating legitimate trade and travel through legal ports of entry. As the guardian of the United States' borders, CBP protects the roughly 4,000 miles of northern border between United States and Canada, from Maine to Washington. The terrain ranges from densely forested lands on the west and east coasts to open plains in the middle of the country.

CBP has completed a Final Programmatic Environmental Impact Statement (PEIS) for its ongoing and potential future activities along the northern border. The Final PEIS is now available. (For instructions on obtaining a copy of the PEIS, please see the **ADDRESSES** section of this document.) Because this effort is programmatic in nature, the PEIS does not define effects for a specific or planned action. Instead, it analyzes the overall environmental and socioeconomic effects of activities supporting the homeland security mission of CBP and looks at various alternatives that would enhance CBP's border security activities.

Public Scoping Process

On July 6, 2010, CBP published in the **Federal Register** (75 FR 38822) a notice announcing that CBP intended to prepare four PEISs to analyze the environmental effects of current and potential future CBP border security activities along the northern border. Each PEIS was to cover one region of the northern border: the New England region, the Great Lakes region, the region east of the Rocky Mountains, and the region west of the Rocky Mountains. The notice also announced and initiated the public scoping process to gather information from the public in preparation for drafting the PEISs. The notice provided that the scoping period would conclude on August 5, 2010, after CBP held 11 scoping meetings at various locations along the northern border. CBP continued to take comments past the initial scoping period.

Draft PEIS

Subsequently, and in part due to comments received during public scoping, CBP decided to refocus its approach and develop one PEIS covering the entire northern border, rather than four separate, regional PEISs. CBP concluded that, relative to four separate PEISs, one PEIS would be a more useful planning tool. CBP also determined that this new approach would ensure that CBP could effectively analyze and convey impacts that occur across regions of the northern border. Therefore, CBP published a notice in the **Federal Register** (75 FR 68810) announcing this intention on November 9, 2010. On September 16, 2011, CBP published a notice of availability of the Draft PEIS in the **Federal Register** (76 FR 57751) with request for comments and announcement of public meeting dates.

In the Draft PEIS, CBP analyzed the environmental and socioeconomic effects of current and potential future CBP border security activities along the northern border between the United States and Canada, including an area extending approximately 100 miles south of the northern border. For the purposes of the PEIS, CBP defined the northern border as the area between the United States and Canada extending from the Atlantic Ocean to the Pacific Ocean, encompassing all the states between Maine and Washington, inclusively. (The Alaska-Canada border is not included in this effort.) In the PEIS, CBP evaluated the environmental and socioeconomic impacts of routine aspects of its operations along the northern border and considered potential enhancements to its infrastructure, technologies, and application of manpower to continue to deter existing and evolving threats to the Nation's physical and economic security. The PEIS analyzed four northern border regions: the New England region, the Great Lakes region, the region east of the Rocky Mountains, and the region west of the Rocky Mountains. The PEIS did not contain specific proposals for projects, nor did it convey a specific intent to expand CBP's activities within the period covered by the PEIS.

Publication of the Draft PEIS initiated a public review and comment period. During that review and comment period, CBP held 12 public meetings in various locations within the area of study and one additional meeting in the Washington, DC metropolitan area to reach any national interest groups seeking information on CBP's evaluation. CBP's public involvement strategy sought to cover a broad range of the northern border, including remote areas, mid-sized towns, and some population centers. Because CBP will take the requisite steps to comply with NEPA for specific projects that are within the scope of the alternatives or activities covered by this PEIS, there will be

additional opportunities for public involvement regarding potentially significant impacts to the environment.

CBP received 123 pieces of correspondence providing comments, which contained over 700 comments on the Draft PEIS. Some recurring themes received in the comments include:

- Concerns with the sufficiency of the range of alternatives proposed and their comparative analysis;
- Concern about potential impacts to transboundary areas and transboundary movement of species;
- Concerns regarding belief that CBP would use this PEIS to justify building a fence along the border;
- Concerns with potential impacts to specific cultural resources identified by commenters; and,
- Issues with the extent of public outreach conducted by CBP for the PEIS.

Final PEIS

After further analysis and consideration of the comments received on the Draft PEIS, CBP has now completed a Final PEIS. CBP has prepared the Final PEIS as a planning tool in accordance with DHS Directive 023-01, Environmental Planning. The Final PEIS is intended to provide decision-makers within CBP with information on the potential for direct, indirect, and cumulative environmental impacts that could result from any future proposals to secure and otherwise facilitate legal trade and travel through the northern border. CBP plans to use the information derived from the analysis in the Final PEIS in management, planning, and decision-making for its mission and its

environmental stewardship responsibilities. It will also be used to establish a foundation for future impact analyses.

More specifically, CBP plans to use the Final PEIS analysis over the next five to seven years as CBP works to improve security along the northern border. CBP will use this PEIS as a foundation for future environmental analyses of specific programs or locations as CBP's plans for particular northern border security activities develop. The Final PEIS provides background information for the incorporation of more project-specific plans; CBP would not implement any alternative or any element of any alternative in the Final PEIS based solely on the analysis presented in the Final PEIS. To implement a specific plan, CBP would take the requisite steps to comply with the National Environmental Policy Act of 1969 (NEPA).

Incorporation of Comments

The Final PEIS reflects the consideration and incorporation of public comments received on the Draft PEIS. In its responses, CBP sought to improve the explanation of the comparative merits of each alternative and make clear that the alternatives represent a reasonable set of options given that CBP is not proposing specific location or intensity based-strategies for augmenting activities at this time. In addition, CBP clarified that the PEIS did not set forth a specific proposal for expansive use of barriers between the ports of entry and that any future proposal would be subject to a site-specific impacts analysis, including consultation with affected landowners, land managers, and agencies with jurisdiction over impacted resources. Finally, CBP clarified that several comments

regarding impacts to specific resources of cultural or socioeconomic importance to individual commenters were not addressed in the PEIS because the programmatic nature of the document would not permit addressing detailed impacts to every location-specific resource.

Substantive comments within the scope of considerations covered in the Draft PEIS have been incorporated in the Final PEIS. CBP's responses to all comments received are summarized in Appendix A of the Final PEIS. CBP also made additional technical clarifications from the draft identified through the course of incorporating comments.

Alternatives Considered

The Final PEIS considers the environmental impacts of several alternative approaches CBP may use to protect the northern border against evolving threats. These alternatives would all support continued deployment of existing CBP personnel in the most effective manner while maintaining officer safety and continued use of partnerships with other Federal, state, and local law enforcement agencies in the United States and Canada. CBP needs to maintain effective control of the northern border via all air, land, and maritime pathways for cross-border movement.

The **No Action Alternative** (or "status quo") would be to continue with the same facilities, technology, infrastructure, and approximate level of personnel currently in use, deployed, or currently planned by CBP. Normal maintenance of existing facilities is included in this alternative, along with previously planned or started projects. This alternative would not meet the purpose and need of the proposed action to allow CBP the

flexibility to improve its capability to interdict cross-border violators and to identify and resolve threats at the ports of entry in a manner that avoids adverse effects on legal trade and travel. However, it is evaluated in the PEIS because it provides a baseline against which the impacts of the other reasonable alternatives can be compared.

The **Facilities Development and Improvement Alternative** would focus on providing new permanent facilities or improvements to existing facilities, such as Border Patrol stations, ports of entry, and other facilities to allow CBP officials to operate more efficiently and respond to situations more quickly. This alternative would help meet CBP's goals because the new and improved facilities would make it more difficult for cross-border violators to cross the border. It would also divert traffic from or increase the capacity of the more heavily used ports of entry, decreasing waiting times. The applicability of this alternative would be limited, as most roads crossing the northern border already have a crossing facility.

The **Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative** would focus on deploying more effective detection, inspection surveillance, and communication technologies in support of CBP activities. This alternative would involve utilizing upgraded systems that would enable CBP to focus efforts on identifying threat areas, improving agent and officer communication systems, and deploying personnel to resolve incidents with maximum efficiency. This alternative would meet CBP's goals by improving CBP's situational awareness and allowing CBP to more efficiently and effectively direct its resources for interdicting cross-border violators.

The **Tactical Security Infrastructure Deployment Alternative** would focus on constructing additional barriers, access roads, and related facilities. The barriers would

include selective fencing and vehicle barriers at selected points along the border and would deter and delay cross-border violators. The access roads and related facilities would increase the mobility of agents and enhance their capabilities for surveillance and for responding to various international border violations. This alternative would help meet CBP's goals by discouraging cross-border violators and improving CBP's capacity to respond to threats, but would not assist CBP in identifying and classifying threats.

The **Flexible Direction Alternative** would allow CBP to follow any of the above directions in order to employ the most effective response to the changing threat environment along the northern border. This approach would allow CBP to respond flexibly to a constantly changing threat environment.

Identified Preferred Alternative and Draft Record of Decision

As a result of the analysis in the PEIS, the Draft Record of Decision (ROD) identifies the alternative that is most representative of the approach CBP will employ in order to respond to changes in security or trade and travel priorities or evolving threats within the next five to seven years. CBP is making the Draft ROD available at this time. The Final ROD will be issued no sooner than 30 days from the date of publication of this notice.

The Final PEIS identifies the Detection, Inspection, Surveillance, and Communications Expansion Alternative as the environmentally preferred alternative. Likewise, the Draft ROD selects the Detection, Inspection, Surveillance, and Communications Expansion Alternative as the one that is most representative of the approach CBP will employ in the next five to seven years; however, changes in the

nature, intensity, or locations of cross-border threats, or changes in national security or trade, travel, and economic priorities may compel CBP to adopt the Flexible Direction Alternative in the future. If such changes in cross-border threats or national security priorities occurred within five to seven years of the issuance of a final ROD, CBP would notify the public that it was changing its selected alternative through its websites (<http://www.cbp.gov/xp/cgov/about/sr/> and www.dhs.gov/nepa) and through the Federal Register with a new Draft ROD and a 30 day waiting period before making this change by issuing a Final ROD. Otherwise, CBP would determine if it needed to supplement the PEIS in accordance with the requirements found at 40 CFR 1502.9.

The Draft ROD also clarifies CBP's recognition that the actual level of activities that might be required could very likely be substantially lower than what is addressed in the PEIS.

NEPA

This environmental analysis is conducted pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the Council on Environmental Quality Regulations for Implementing the NEPA (40 CFR parts 1500-1508), and Department of Homeland Security Directive 023-01 (renumbered from 5100.1), Environmental Planning Program of April 19, 2006. NEPA addresses concerns about environmental quality and the government's role in protecting it. The essence of NEPA is the requirement that every Federal agency examine the environmental effects of any proposed action before deciding to proceed with it or with some alternative. NEPA and the implementing regulations issued by the President's Council on Environmental Quality call for agencies to document the potential environmental effects of actions they are

proposing. Generally, agencies must make those documents public, and seek public feedback on them.

In accordance with NEPA, the PEIS analyzes the effects on the environment of CBP's Northern Border Activities. CBP has sought public input on these studies and will use them in agency planning and decision making. Because NEPA is a uniquely broad environmental law and covers the full spectrum of the natural and human environment, the PEIS also addresses environmental considerations governed by other environmental statutes such as the Clean Air Act, Clean Water Act, Endangered Species Act, and National Historic Preservation Act (NHPA).

Next Steps

The Draft ROD is available to the public at the following websites: <http://www.cbp.gov/xp/cgov/about/sr/> and www.dhs.gov/nepa. A final decision will be made no sooner than 30 days from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and issued in a Final ROD. The Final ROD will select an alternative to guide CBP's activities along the northern border for the next five to seven years. That decision will be published in the **Federal Register** in a Final ROD and will be made available to the public at the same website.

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